IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.365 OF 2007

IN

APPEAL (L) NO.37 OF 2007

IN

COMPANY PETITION NO.985 OF 2000

...

Indusind Bank ...Appellant

v/s.

M/s.Comfort Coolers (I) Pvt.Ltd.

and ors. ...Respondents

...

Mr.Sanjay Duse with Mr.D.G. Dhanure i/b M.V.Kini & Co. for the Appellant.

Mr.S.Ramakant, Dy.Official Liquidator is present.

...

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 25TH JULY, 2007

P.C.:

Heard the learned Counsel for the Appellant and the Official Liquidator.

For the reasons disclosed in the affidavit filed in support of the motion, motion is granted in terms of prayer clause (a).

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)

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P.C.:

Heard the learned Counsel appearing for the Appellant

and the Official Liquidator. There is no dispute that the property belongs to the company which is under liquidation. It is also not in dispute that though the property is mortgaged in favour of the Appellant/bank, there is no order passed by any competent court authorising the Appellant to take possession of the property. Therefore, we find nothing wrong with the order impugned in the Appeal, which requires the Official Liquidator to take possession of the property. As the company is under liquidator, the Official Liquidator will have to take possession of the property which belongs to the company. However, in case the Appellant/bank secures an order from the competent court directing the Official Liquidator to hand over possession of the property to the Appellant/bank, the Official Liquidator obviously, subject to his rights to challenge the order if so advised, will have to comply with that order. With these observations, the Appeal is disposed of.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)